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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/627,270	04/04/96	TOJO	

08/627,270 04/04/96 TOJO

H SKO-104-A-1

EXAMINER

QM12/0829

CARRIER, BLACKMAN & ASSOCIATES
24101 NOVI ROAD
SUITE 100
NOVI MI 48375-3248

ARTICLES, P PAPER NUMBER

30

DATE MAILED:

08/29/01

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☒ Responsive to communication(s) filed on 6/1/01
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 14-16, 19, 20, 26, 27 + 30-42 is/are pending in the application.
- Of the above, claim(s) 14-16, 19 + 34-36 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 20, 26, 27, 30-33 + 37-42 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s): _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

- SEE OFFICE ACTION ON THE FOLLOWING PAGES -

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1. In view of the appeal brief filed on June 1, 2001, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (a) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (b) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claim 20 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Swidler "436.

Applicant is referred to the corresponding paragraphs of the Office Action mailed June 7, 1999, paper number 17.

Regarding this rejection, Applicant argues that the full disclosure of Swidler teaches away from applying a strippable paint to a painted surface of an automobile prior to mounting of an engine and functional parts to the automobile in an assembly process because, Swidler's full disclosure of his actual invention has nothing to do with vehicle assembly. However, Swidler's

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failure to particularly address using the coating during an assembly process, per se, does not establish that Swidler teaches away from Applicant's claimed invention. Were Swidler to express that an anti-scratch cover is used during the assembly process, then it could be said that Swidler teaches away from the claimed invention.

The main issue to be addressed in determining whether Applicant's claimed invention is anticipated or obvious in view of Swidler should **not** be what Swidler fails to disclose, but rather should be what one having ordinary skill in the art would have gleaned from this reference "as a whole".

Accordingly, column 1, lines 11-14 of Swidler establish that the surface paint finishes of new vehicles are subject to injuries both during the assembly process and during transportation from the assembly plant to other locations. Next, column 1, lines 39-44 establish that plastic or canvas covers have been used to protect the surface paint finishes of new vehicles during the manufacturing and transportation thereof. Then, Swidler explains how his coating can be used in place of these covers during the transportation of the vehicle from the assembly plant to other locations. Thus, a logical inference that one would draw from Swidler is that his coating can be substituted for the plastic and vinyl covers wherever they have been used in the past.

Accordingly, Swidler inferentially teaches that his coating is applied to the vehicle during the assembly process, whereby claim 20 is anticipated by this reference. Alternatively, from the aforementioned inference one having ordinary skill in the art would have found it obvious to apply

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the coating prior to performing assembling or manufacturing operations, whereby claim 20 is obvious.

The **main** focus of Swidler is the general protection of surface paint finishes of new vehicles, and **not** merely protection following manufacture. In this regard, column 5, lines 8-36 discuss the general method of protecting surfaces without limiting it to any time frame relative to the manufacture of the vehicle. Then, column 5, lines 37-39 state that the invention **further** includes a method of transporting the protected vehicles. Thus, Applicant's statement, that Swidler's invention is only discussed in terms of preventing damage to paint finished surfaces of the vehicle subsequent to vehicle manufacture, fails to consider the reference "as a whole".

4. Claims 20, 26 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art as described on pages 20-21 of the specification in view of Swidler and the state of the art.

On pages 20-21, Applicant discloses to be prior art the use of an anti-scratch cover during the manufacture of a vehicle. Swidler discloses that a strippable paint can be used in place of an anti-scratch cover. In view of Swidler, one having ordinary skill in the art would have found it obvious to use a strippable paint in place of the anti-scratch cover of Applicant's admitted prior art, in order to realize the benefits thereof.

The subject matter of claim 26 would have been obvious to one having ordinary skill in the art because, it is state of the art to perform a step of finished product inspection following an

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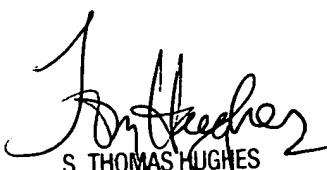
assembly step. The subject matter of claim 38 is held to have been an obvious matter of choice in the absence of disclosure of the use of water base paint causing new or unexpected results.

5. Claims 20, 26, 27, 30-33, 37 and 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swidler '436 in view of Nelson et al (4,907,533). Nelson et al teach the use of two-stage drying employing infrared and forced air. It would have been obvious to one of ordinary skill in the art to modify the drying process of Swidler to employ the two-stage drying of Nelson et al to provide the advantages of two-stage drying. Limitations to particular materials and temperature ranges are considered to have been obvious matters of choice and within the level of skill of the ordinary artisan in the absence of disclosure of these limitations causing new or unexpected results or of them solving a stated problem.

The subject matter of claim 26 would have been obvious to one having ordinary skill in the art because, it is state of the art to perform a step of finished product inspection following an assembly step.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to P.W. Echols whose telephone number is (703) 308-1802.

pwe
August 27, 2001


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P. W. Echols
Primary Examiner